

The 13th June, 1986

No. 9/8/86-6Lab./4418.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workman and the management of M/s Elson Cotton Mills Ltd., Ballabgarh :—

IN THE COURT OF SHRI R. N. SINGAL, PRESIDING OFFICER, LABOUR COURT,
FARIDABAD

Reference No. 31 of 1985

between

SHRI GIRI RAJ SINGH, WORKMAN AND THE RESPONDENT MANAGEMENT OF
M/S ELSON COTTON MILLS LTD., BALLABGARH

Present—

Workman with Shri Jawahar Lal.
Shri P. R. Sikka for the respondent.

AWARD

This industrial dispute between the workman Shri Giri Raj Singh and the respondent-management of M/s Elson Cotton Mills Ltd., Ballabgarh, has been referred to this Court by the Hon'ble Governor of Haryana,—vide his order No. ID/FD/13-84/5773—78, dated 15th February, 1985, under section 10(i)(c) of the Industrial Disputes Act, 1947, for adjudication. The terms of the reference are :—

Whether the termination of services of Shri Giri Raj Singh was justified and in order? If not, to what relief is he entitled?

According to the statements of both the parties, the dispute has been fully settled. The workman has received Rs. 1000.00 in lieu of the back wages and he is reinstated with continuity of service but without back wages. He shall join duty on 4th April 1984. In view of this settlement, the award is given that the dispute has been fully settled.

Dated the 3rd April, 1986.

R. N. SINGAL,

Presiding Officer,
Labour Court, Faridabad.

Endorsement No. 1220, dated 7th May, 1986.

Forwarded (four copies) to the Commissioner & Secretary to Government, Haryana, Labour & Employment Department, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

R. N. SINGAL,

Presiding Officer,
Labour Court, Faridabad.

The 15th July, 1986

No. 9/6/86-6Lab./4912.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala, in respect of the dispute between the workman and the management of Haryana Roadways, Jind :—

IN THE COURT OF SHRI V. P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT,
AMBALA

Reference No. 147 of 1984

(Old No. 36 of 1983)

between

SHRI RAM KUMAR, WORKMAN AND THE MANAGEMENT OF
HARYANA ROADWAYS, JIND.

Present—

Shri Tejinder Singh, for workman.
Shri A. R. Goyal, for respondent.

AWARD

The Hon'ble Governor of Haryana, in the exercise of powers conferred,—*vide* clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947, referred dispute between Shri Ram Kumar, Conductor and Messrs G. M., Haryana Roadways, Jind, originally to Labour Court, Rohtak. The terms of the reference are as under :—

“Whether the termination of services of Shri Ram Kumar, workman, was justified and in order ? If not, to what relief is he entitled ?”

Labour Court at Ambala was created in April, 1984, so this reference was received by transfer.

Workman through his statement of claim alleged that he has been in the service of respondent-management as a conductor for the last 3½ years. He has been drawing Rs. 525 p. m. as a pay. His services were wrongly terminated on 3rd October, 1980 in contravention of section 25(F) of Industrial Disputes Act, 1947. He has prayed for his reinstatement with continuity of service and with full back wages.

Respondent-management appeared, contested the case and contended that no doubt Shri Ram Kumar, Conductor, was in the service of respondent-management. But his services were rightly terminated because on 16th February 1979 he was going with a bus No. 985 from Jind to village Chatter which was checked at village Gogria by the flying squad and found that the workman had charged from six passengers from Jind to Kuchrana at the rate of Rs. 1.75 and had not issued any tickets, when the flying squad started checking the passengers the driver took the bus up to distance of two furlongs. Thereafter the conductor with the help of Match stick pinched six tickets wrongly instead of 9-3 he pinched at 7-1 and thus he embezzled a sum of Rs. 14.80. Thereafter his explanation was called for Enquiry Officer was appointed, show-cause notice, charge-sheet were issued. Witnesses were examined. Workman was afforded a full opportunity to cross-examine the witnesses and lead defence which he availed of on the basis of report of Inquiry Officer. Second show-cause notice was given, reply of the same was furnished by the workman and thereafter affording personal hearing to Shri Ram Kumar services were terminated according to law. So it was prayed that the claim of the workman is wrong and not tenable.

Workman filed replication through which he refuted the contentions of the respondent-management.

On the pleadings of the parties the following issues were framed :—

Issues.—

- (1) Whether termination order dated 24th October, 1980 is justified; if not, its effect ? OPM
- (2) Whether enquiry is valid or in other words fair and proper ? OPM
- (3) Relief.

I have heard Shri Tejinder Singh, Ld. A. R. for the workman and Shri A. R. Goyal, Law Officer for the respondent-management and have perused the oral and documentary evidence placed on the file. My issue-wise findings are as under :—

Issue No. 2.—

Issue No. 2 was infact treated as a preliminary issue and evidence was also led on it, so issue No. 2 is taken up for discussions, onus of this issue was upon the respondent-management. Respondent to discharge. The onus of this issue examined MW-1 Shri Gopal Dass Rehaja, Accounts Officer, Sugar Mill Karnal who deposed that in August, 1980 he was posted in Jind depot as Accounts Officer, he was appointed as Inquiry Officer in this case,—*vide* orders Ex.-M-1. He issued notice to the parties,—*vide* Ex.-M-2, he recorded enquiry proceedings which are Ex.-M-3, page 1 to 5. He further stated that the recorded statement of witnesses afforded a full opportunity to workman to cross-examine the witnesses and thereafter he also gave an opportunity to the petitioner to lead defence evidence. His enquiry report is Ex.-M-4. In cross-examination he stated that no separate list of witnesses was supplied to workman because the names of witnesses had been mentioned in the charge-sheet itself. He stated that workman cross-examined the witnesses.

MW-2 Shri Satyabir Singh deposed that he was brought summoned records, charge-sheet is Ex.-M-5, reminder of reply is Ex.-M-6, reply of workman is Ex.-M-7. Show-cause notices Ex.-M-8 and reply of show-cause notices furnished by workman is Ex.-M-9. Thereafter, personal hearing was afforded to the workman. Proceedings in that respect are Ex.-M-10, notings by G. M. are Ex.-M-11. The Ld. Law Officer ten dered into evidence copy of termination order Ex.-M-12.

The workman to rebut evidence of the management examined himself as AW-1 and he stated that he was not informed about the appointment of Inquiry Officer. He further stated that he was not informed the manner of enquiry going to be conducted. He further stated that statement of witnesses were not given to him. But in cross-examination he stated that he received charge-sheet which was replied by him. He further stated that during the enquiry proceedings he did not raise any objection in writing. He also admitted that enquiry proceedings were conducted in his presence. He cross-examined the witnesses he replied the second show-cause notice.

In view of the above evidence, I am of the considered opinion that the appointment of Enquiry Officer came in the knowledge of the workman when he received copy of notice Ex-M-2. Charge-sheet and list of witnesses were given to him. Witnesses were examined thereafter the enquiry Officer gave finding against the workman. Regarding embezzlement as narrated above, The enquiry report was processed by the G.M., Haryana Roadways, issued second show-cause notice which was replied by the workman. Thereafter personal hearing was afforded to him which he also availed of, this fact is evident from the noting by the G. M. in the enquiry file. From the perusal of enquiry proceedings and the evidence which have come on the file, it has become clear that a fair and proper enquiry was conducted by the Inquiry Officer and thereafter the G. M., Haryana Roadways passed termination order regarding the services of workman correctly. So this issue is decided, in favour of, workman against the respondent-management.

Issue No. 2.—

Since the finding of issue No. 2 has gone against the workman and it has proved on the file that enquiry is fair and proper that termination order passed by G. M., Haryana Roadways Depot, Jind which are Ex-M-2 are correct and justified. So this issue is also decided, in favour of, respondent-management against the workman.

Issue No. 3.—

For the foregoing reasons on the basis of my issue-wise findings, I hold that the enquiry was fair and proper. So the termination is also just and legal. The claim of the workman fails, so I pass award regarding the dispute, in hand accordingly.

V. P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala.

Dated, the 1st May, 1986.

Endst. No. 1298, dated the 3rd May, 1986.

Forwarded (four copies), to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

V. P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala.

The 24th July, 1986

No. 9/6/86-6Lab./5301.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala in respect of the dispute between the workman and the management of M/s (i) The State Transport Controller, Haryana, Chandigarh. (ii) The General Manager, Haryana Roadways, Jind:—

IN THE COURT OF SHRI V. P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT, AMBALA

Ref. No. 142 of 1984

(Old No. 9 of 1984)

SHRI RAM KUMAR, WORKMAN AND THE MANAGEMENT OF THE MESSRS THE STATE TRANSPORT CONTROLLER, HARYANA, CHANDIGARH. (II) THE GENERAL MANAGER, HARYANA ROADWAYS, JIND.

Present:—

Shri Tejinder Singh for workman.

Shri Radhey Sham for respondent.

AWARD

The Hon'ble Governor of Haryana in the exercise of powers conferred,—vide clause (c) of sub-section (i) of section 10 of Industrial Disputes Act, 1947 referred dispute between Shri Ram Kumar and Messrs. G. M., Haryana Roadways, Jind etc., originally to Labour Court, Rohtak. The terms of the reference are as under:—

“Whether termination of services of Shri Ram Kumar is according to law and correct, if not, to what relief is he entitled?”

On creation of Labour Court at Ambala in April, 1984 this reference was received by transfer.

Workman through his claim-statement, dated, 5th September, 1984 submitted that he has been in the service of respondent-management for the last 3½ years as a Conductor No. 232. On 3rd October, 1980 his services were wrongly terminated without any notice, fair and proper enquiry or compensation. At the time of termination he has been drawing Rs. 525 P.M. He further alleged that this termination is violative to section 25 (F) of Industrial Disputes Act, 1947 and Punjab Punishment and Appeal Rules. He be got reinstated with continuity of service and full back wages.

Respondent-management contested the dispute and contended that services of workman were terminated after a fair and proper enquiry in which full opportunity of cross-examination and leading defence was provided to workman. So reference deserves to be answered, in favour of, management. It was further contended that the Inspector who had made report against workman was examined on behalf of the management and their evidence is sufficient and reliable in the departmental proceedings. The action of the respondent is legal and justified under the rules. It was also contended that workman filed appeal to S.T.C., Haryana, which was also dismissed.

Workman filed replication through which he controverted the allegations of the respondent-management and supported his own assertions made in the claim-statement.

On the pleadings of the parties the following issues were framed:—

Issues—

- (1) Whether termination order, dated 3rd October, 1980 is justified, if so, its effect? OPM
- (2) Whether enquiry was fair and proper, if so, its effect?
- (3) Relief?

At the request of the parties, issue No. 2 was treated as preliminary issue and evidence of both these parties were recorded on it.

I have heard Shri Tejinder Singh for workman and Shri Radhey gham, Law Officer for respondent-management and have perused the oral and documentary evidence placed on the file. My findings on issue No. 2 are as under:—

First of all I would like to remark that the reply which was filed by the respondent-management is most defective because it does not disclose what were the allegations against the workman whether those were proved or not it does not disclose that who was appointed Inquiry Officer and what were the complaints, so I have to take first of all help to ascertain the facts from the enquiry file and secondly from the evidence led by the parties on this issue.

From the enquiry file and termination order Ex-M-9, it is revealed that on 16th November, 1978, Ram Kumar, Conductor No. 232 was carrying Bus No. 1502 on Jind-Bhiwani route which was inspected by Shri Gaza Nand, Inspector at Mundhal and found five passengers without tickets. He reported that Ram Kumar, Conductor has taken fare Rs. 3.50 from the five passengers and had not issued tickets to them. Thus he embezzled a sum of Rs. 3.50.

According to the second charge on 4th December, 1978, Ram Kumar was with bus No. 1023 at Rohtak-Jind route which was inspected by Shri Satya Parkash and Ram Kumar Huda at Garaunda and found that Ram Kumar had charged fare Rs. 1.30 from two passengers and had not issued tickets to them. Thus he embezzled Rs. 1.30.

Replies of Shri Ram Kumar, Conductor No. 232 are that on 16th November, 1978 five passengers related to each other were sitting in the bus in the front portion as well as in the rear portion. On enquiry the passengers of rear portion told him that the passengers sitting ahead have taken tickets while the passengers sitting ahead told him that the passengers sitting in the rear portion have taken the tickets and when the bus was checked all the passengers were found without tickets. Inspector charged fare from them took un-punched tickets from him and attached with complaint.

The second reply of Shri Ram Kumar is that on 4th December, 1978 from village Kinana 15 passengers boarded the bus from the front side he was busy in issuing of tickets in the back side in the mean time next bus stoppage came and he could not issue tickets to two passengers out of them. Shri Satya Parkash and Ram Kumar Hunda apprehended those two passengers without tickets. They took two un-punched tickets from him and attached with the complaint and also charged fare from those passengers.

When Shri A. R. Goyal, legal Assistant was appointed as Inquiry Officer in this case was examined as MW-1 he only stated that he examined Gaza Nand recorded his statement who was cross examined by Ram Kumar. He provided opportunity to lead defence which was not availed of by Shri Ram Kumar. He did not go into another complaint it was also the basis of termination of Shri Ram Kumar. Statement of Shri Satya Parkash and Shri Ram Kumar Hunda were recorded collectively even both the witnesses were jointly cross-examined. This procedure which was adopted by the Inquiry Officer is most unfair and unjust.

Neither Gaza Nand nor Satya Parkash and Ram Kumar Hunda all failed to check the cash of Shri Ram Kumar, Conductor No. 232 nor they made any note to this effect on the way bill which was in possession of the workman. So non-compliance to these basic provisions go against respondent-management and it will reveal that enquiry is improper and unfair. I am fortified on this view of mine by Judicial Pronouncement of our own Hon'ble High Court 1985 Vol-2 SLR Page 116 case State of Haryana Vs Mohan Singh. The another law on this point is 1985 Vol-1 SLR page 533 Khem Chand Vs State of Rajasthan in which it was observed that petitioner removed from service after enquiry on the ground that he did not issue tickets to some passengers. All the passengers from whom the petitioner received fare were not examined in the course of departmental enquiry as witnesses by the State. It was held that the order of removal of petitioner from service not maintainable.

Moreover in the case in hand the explanation submitted, by workman against his charges Ex-M-5 is satisfactory.

The G. M. Haryana Roadways, Jind while passing termination order of workman did not apply his mind properly to the enquiry report and enquiry proceedings. Nor he passed an proper order with due diligence which is evident from Ex-M-6 which is an cyclo style letter which has been signed by G.M.

In view of my above discussions I am of the considered view that Shri A. R. Goyal only supported a portion of his enquiry. He simply named having examined on a singal charge to Shri Gaza Nand; he did not state that he also hold enquiry against the second charge also. The workman was not given full opportunity to cross examine the witnesses nor he was given time to lead defence.

Statement of Satya Parkash and Ram Kumar Hunda were jointly recorded and therefore no opportunity to lead defence was afforded. Reply of workman Ex-M-5 was not properly appreciated which shows that there is a mis-carriage of justice from the unfair and improper enquiry conducted by the enquiry officer, so this issue is decided against the management, in favour of, workman.

Issue No. 3 :

On the basis of my findings on issue No. 2 I order the reinstatement of Shri Ram Kumar, Conductor No. 232 from the day of termination with continuity in service and with full back wages. I pass award regarding the dispute in hand accordingly.

Dated, the 12th May, 1986.

V. P. CHAUDHARY,
Presiding Officer,
Labour Court, Ambala.

Endorsement No. 1364, dated the 15th May, 1986.

Forwarded (four copies) to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

V. P. CHAUDHARY,
Presiding Officer,
Labour Court, Ambala.